

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**UNITED STATES OF AMERICA**

**VS.**

**CASE NO: 6:19-cr-165-Orl-18GJK**

**ANGEL ALVA-DIAZ**

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**ORDER**

This case was referred to the United States Magistrate Judge for an order on Defendant Angel Alva-Diaz's unopposed Motion under 18 U.S.C. § 4241 for Order Committing the Defendant to the Custody of the Attorney General for Hospitalization and Treatment to Determine Competency (Doc. 19), which the United States Magistrate Judge granted on August 26, 2019 (Doc. 20). On October 30, 2019, the United States Magistrate Judge held an evidentiary hearing to determine whether Defendant is competent to stand trial on his charge of illegal re-entry into the United States after deportation in violation of 8 U.S.C. § 1326(a) and (b)(2). (*See* Docs. 1, 9, 24.) Subsequently, the United States Magistrate Judge entered a report and recommendation (the "Report and Recommendation") recommending that the Court find Defendant incompetent to stand trial and order that Defendant be committed to the custody of the Attorney General to be hospitalized and treated in accordance with 18 U.S.C. § 4241(d). (Doc. 25 at 3.) No timely objections to the Report and Recommendation have been filed. The Court reviewed the Report and Recommendation (Doc. 25) and agrees with the finding that Defendant Angel Alva-Diaz is incompetent to stand trial. Accordingly, it is hereby **ORDERED** and **ADJUDGED** as follows:

1. United States Magistrate Judge Gregory J. Kelly's Report and Recommendation (Doc. 25) is **APPROVED** and **ADOPTED** and is made part of this Order for all purposes, including appellate review.

2. In accordance with 18 U.S.C. § 4241(d), Defendant shall be committed to the custody of the Attorney General, or his duly authorized representative(s), for placement and treatment in a suitable facility for a reasonable period of time, not to exceed four (4) months, as is necessary to determine whether there is a substantial probability that in the foreseeable future Defendant will attain the capacity to permit the proceedings to go forward. Upon proper application to the Court, Defendant's time in the facility shall be extended for an additional reasonable period of time until either: (1) Defendant's mental condition is so improved that trial may proceed, if the Court finds that there is a substantial probability that within such additional period of time Defendant will attain the capacity to permit the proceedings to go forward; or (2) the pending charges against Defendant are disposed of according to law, whichever is earlier.

3. Plaintiff United States of America shall file a status report with the Court within 90 days of the entry date of this Order and shall file an updated status report every 90 days thereafter.

**DONE and ORDERED** in Orlando, Florida, this 4 day of December, 2019.

  
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**G. KENDALL SHARP**  
SENIOR UNITED STATES DISTRICT JUDGE

Copies furnished to:

U.S. Marshal  
Counsel of Record